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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,633	08/01/2003	Gunter Lewentz	071308.0458	2771

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BAKER BOTTS L.L.P.  
PATENT DEPARTMENT  
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AUSTIN, TX 78701-4039

EXAMINER
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GORMAN, DARREN W

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/632,633

Applicant(s)

LEWENTZ ET AL.

Examiner

Darren W Gorman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08/01/03, 12/16/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on February 6, 2001. It is noted, however, that applicant has not filed a certified copy of the German application as required by 35 U.S.C. 119(b).

### ***Information Disclosure Statement***

2. The IDS filed on August 1, 2003 and the IDS filed on December 16, 2004 are hereby acknowledged and have been placed of record. Please find attached a signed and initialed copy of each PTO 1449.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the cutout having an "oval" shape, as recited in claims 5, 10, and 16, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. NOTE: Although Applicant describes (in the specification) two of the cutouts (36) in Figure 2 as being "oval" cutouts and a third cutout being "kidney-shaped", it appears in the drawing that all three cutouts are kidney shaped.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet,

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even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claims 2, 6, 11, 13, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 2 and 13, it is not clear how one would punch, drill, and stamp the cutout.

Regarding claims 6, 11, and 17, Applicant’s stop element comprises more than one “edge region”. For this reason, it is unclear which “the edge region” is being recited.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3-5, 7-10, 12, and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Keiczek, USPN 4,202,500.

Regarding claims 7-10, Keiczek shows a fuel injector (see Figure 2) having a nozzle body (3), a valve needle assembly (9, 13) with a stop portion (no #) being displaceably disposed, a nozzle holder (1) with a pressure pin (no #) being displaceably disposed partially therein, a disk-shaped stop element (2) between the nozzle body and the nozzle holder, wherein the nozzle body and the nozzle holder are axially tensioned against one another, wherein first and second sealing surfaces of the stop element each incorporate at least one cutout (fuel bore 21), the cutout being implemented evenly opposite one another in the sealing surfaces, the cutout extending all the way through the stop element from the first sealing surface to the second sealing surface, the cutout further being deepened (20) by a predetermined axial depth in the first and second sealing surfaces, and the cutout appearing to have a circular shape (see again Figure 2). Regarding the recitation “for the purpose of increasing the contact pressure of the sealing surfaces” as recited in claim 7, the cutouts shown by Keiczek, regardless of intention, would inherently increase the contact pressure of the sealing surfaces because of the reduced surface areas of the contact faces.

Regarding method claims 1, 3-5, 12, and 14-16, the apparatus shown by Keiczek, as discussed above with regard to apparatus claims 7-10, when manufactured/assembled, anticipates

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the recited method steps. Regarding the recitation “producing at least one cutout in the two sealing surfaces in a single manufacturing operation”, it is clear that at least reference number 21 of Figure 2 would be cut in a single operation.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keiczek.

Keiczek teaches all of the claimed method steps as set forth in claims 1 and 12 (see above paragraph 7), however Keiczek is silent as to the process or processes for creating the at least one cutout in the stop element.

Examiner takes Official Notice that it is common and well known to create throughbores in a fuel injector using at least “drilling” techniques.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to create the at least one cutout of Keiczek, using drilling techniques.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents to Khinchuk, Askew, and Coldren et al., are cited as of interest.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W Gorman whose telephone number is 571-272-4901.


The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on 571-272-4901. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Darren W Gorman  
Examiner  
Art Unit 3752

*DWG 1/27/05*  
DWG  
January 27, 2005

  
David A. Scherbel  
Supervisory Patent Examiner  
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